

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Patrick Birmingham, M.D.,

Plaintiff,

v.

Godfrey & Kahn, S.C., and
James Joyce,

Defendants.

Case No. 18-cv-02852

Honorable Marvin E. Aspen

**REPORT OF PARTIES' PLANNING CONFERENCE
AND PROPOSED SCHEDULING ORDER**

1. Conference. Pursuant to Rule 26(f)(1) of the Federal Rules of Civil Procedure, a telephonic conference was held on July 10, 2018 (the “Rule 26(f) Conference”), which conference was attended by: Matthew G. McAndrews of Niro McAndrews, LLC for Plaintiff Patrick Birmingham, M.D.; and Robert J. Palmersheim and Anand C. Mathew of Palmersheim & Mathew for Defendants Godfrey & Kahn, S.C., and James Joyce.

2. Issues Addressed During the Rule 26(f) Conference. During the Rule 26(f) Conference, counsel for the parties: considered the nature and basis of their claims and defenses and the possibilities for promptly settling or resolving the case; agreed to a timeframe for the disclosures required by Rule 26(a)(1); generally discussed issues concerning the preservation of discoverable information; and developed the proposed pretrial discovery plan and schedule set forth in numbered Section 3 below.

3. Proposed Pretrial Schedule and Discovery Plan:

A. The parties agree that no changes should be made in the form or requirement for disclosures under Rule 26(a) and that initial disclosures shall be made on or before August 3, 2018;

B. Discovery.

(1) **Subjects.** The Parties currently anticipate that discovery will be required on the following subjects:

- Defendants' professional relationship with Plaintiff;
- Communications between and among Plaintiff and Defendants;
- Defendants' internal communications concerning Plaintiff;
- Communications between and among third-parties concerning Plaintiff;
- Defendants' patent prosecution and legal counseling work for Plaintiff;
- Defendants' time and billing records with respect to Plaintiff;
- Plaintiff's contentions concerning the manner in which Defendants' breached their duty of care to Plaintiff;
- Defendants' defenses to Plaintiff's claims, including issues of liability and causation;
- The damages Plaintiff is alleged to have suffered as a result of Defendants' alleged conduct, including discovery from third parties relating to damages; and
- Other discovery the need for which may arise or become apparent as discovery progresses

(2) **Discovery Schedule.** The parties propose that following time limits and deadlines shall be applicable in this case:

- i. Any amendments to pleadings or actions to join other parties shall be filed on or before March 7, 2019;
- ii. The cutoff of fact discovery is May 22, 2019;
- iii. Any party with the burden of proof shall disclose its expert report(s) pursuant to Rule 26(a)(2) on or before June 26, 2019;
- iv. The parties may depose the other side's expert(s) disclosed pursuant to Rule 26(a)(2) at any time on or before July 31, 2019; and

- v. The parties shall disclose any rebuttal expert report(s) at any time on or before August 28, 2019;
- vi. The parties may depose the opposing party's rebuttal expert(s) at any time on or before October 2, 2019;
- vii. Any dispositive motions shall be filed on or before November 13, 2019

C. Electronically Stored Information. The parties shall produce responsive electronically stored information (e.g., emails; word processed documents; spreadsheets; databases; PDFs; and image files such as JPEG, GIF, TIFF, BMP, PNG; and the like) in native format unless circumstances make such native production reasonably impractical. If circumstances make production of one or more items of electronically stored information reasonably impractical, then counsel for the parties shall confer in good faith to determine the most practical manner for such information to be produced to the requesting party. Whenever reasonably practical, the parties shall produce PDFs in a text-searchable format.

D. Claims of Privilege or Protection as to Trial Preparation Materials. The parties do not anticipate any issues that require the Court's attention at this time relative to claims of privilege or of protection with respect to trial-preparation materials.

E. Limitations on Discovery. The parties do not wish to make any changes in, or additions to, the limitations on discovery imposed under the Federal Rules of Civil Procedure or Local Rules of this Court.

F. Protective/Confidentiality Order. The parties jointly submit and respectfully move for the entry of the Agreed Confidentiality Order and the Acknowledgement included as Attachment A thereto, both of which are attached and filed as Exhibit 1 hereto.

Respectfully submitted,

/s/ Matthew G. McAndrews

Derek Gilliland (admitted *pro hac vice*)

/s/ Robert J. Palmersheim

Robert J. Palmersheim
Anand C. Mathew

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Counsel for Defendants,
Godfrey & Kahn, S.C.,
and James Joyce

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 30, 2018 the foregoing

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was filed with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to all counsel of record.

I certify that all parties in this case are represented by counsel who are CM/ECF participants.

/s/ Matthew G. McAndrews

Attorney for Plaintiffs,

NIRO McANDREWS, LLC